IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 709 OF 2004.

The State of Maharashtra. ..Appellant.

VERSUS.

Mohd. Mansoor Mohd. Usman Shaikh...Respondent.

...

Mr. B.R.Patil, APP for the State.

CORAM: S. B. MHASE &
ANOOP V. MOHTA, JJ.

DATE : NOVEMBER 30, 2004.

P.C.:-

1. Heard Mr.B.R.Patil, learned APP for the State.

Girl-Monam at the time of incidence was 7.5 years old. The complaint has been lodged on 19.1.2003 by her father though the incidence has taken place on 16.1.2003 at about 7.30 p.m. The girl Monam had been to the grocery shop and while returning, on the way in dark, one person of black colour wearing black colour pant caught her hand and took her in the nearby newly constructed building. The said person removed her clothes and raped her. Thus, the complaint was lodged against the unknown person. After four days the accused was pointed out by the girl and therefore the prosecution against the respondent had been initiated. The trial court has disbelieved the identification because of the excessive improvements made

in the story. Assuming for a moment that the girl is raped, however, there is no evidence which connects the respondent with the incidence. It is very difficult to hold that the respondent has committed rape on Monam and that too in the background and circumstance that the identification is disbelieved by the trial court. The view taken by the trial court is possible one. Hence, leave to appeal is rejected.

(ANOOP V.MOHTA, J.) **(S.B.MHASE,J.)**